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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,935	08/07/2003	Erez Sali	1238-US	8838
24505	7590	09/16/2004		
DANIEL J SWIRSKY PO BOX 2345 BEIT SHEMESH, 99544 ISRAEL			EXAMINER TRAIL, ALLYSON NEEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/635,935

10/635,935

Applicant(s)

SHEFET ET AL.

Examiner

Allyson N Trail

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 12-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/7/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.



DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Re page 1, paragraph 0003: replace "5,576,52" with --5,576,528--.

Re page 4, paragraph 0024: replace "28may" with --28 may--.

Appropriate correction is required.

Claim Objections

2. Claims 1, 3, 4, 6, 7, 9, and 11-13 are objected to because of the following informalities:

Re claim 1, line 5: replace "the range" with --a range--.

Re claims 3, 6, and 12, line 4: replace "the output" with --an output--.

Re claim 4, line 5: replace "the distance" with --a distance--.

Re claims 6 and 11, line 3: replace "the range" with --a range--.

Re claims 7 and 13, line 2: replace "the distance" with --a distance--.

Re claim 9, line 3: replace "the output" with --an output--.

Re claim 9, line 4: replace "the range" with --a range--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubon (5,682,030).

Kubon teaches the following in regards to claims 1, 9, and 11:

"In another embodiment of the present invention, a color camera may be used for camera 901 of FIG. 9. Using a color camera, and bar code labels printed in, for example, the three primary colors (red, green and blue), the video decoder of the present invention may operate to differentiate between bar codes printed in these various colors, even if the bar codes are overlapping." (Col. 18, lines 46-50).

"In addition to the demodulation of the three primary colors by demodulator 1450, bar codes of different colors may be discriminated by a video decoder of the present invention by using a color filter with camera 1401. Using a filter for a specific frequency of light may serve to enhance the camera's ability to discriminate between colors." (Col. 19, lines 17-22).

Kubon teaches the following in regards to claims 1, 2, and 9-11:

Different lighting conditions in which the camera is expected to operate are discussed in column 23, lines 8-14.

Allowable Subject Matter

5. Claims 3-5 and 12-14 are objected to as being dependent upon a rejected base claim and also objected to above, but would be allowable if rewritten in independent form and overcoming the above objection, including all of the limitations of the base claim and any intervening claims.

Claims 6-8 are objected to above, but would be allowable if the above objection were overcome.

The following is an examiner's for allowance: Although Kubon teaches a color bar code system, which comprises a camera reader and a color selector, the above identified prior art of record, taken alone, or in combination with any other prior art, fails to teach or fairly suggest the specific features of claims 3-5, 6-8, and 12-14 of the present claimed invention. Prior art fails to teach a bar code system designed to print a colored bar code, which is optimal for the specific camera reader being used and also depending on the environmental conditions. The specific system includes a color chart generator. The color chart generator produces a color chart of color patches of the range of colors, which a printer used for printing bar codes, is capable of printing. The system also includes a color space generator. The color space generator receives the output of a camera reader (which reads the color patches with at least one illumination) and generates a color space database from the output. Lastly, the system includes an actual space color selector. The space color selector selects N bar code colors from the color space database. The N bar codes selected are to be generally distinct from each other. This system of choosing the best colored bar code (most easily read without a problem of distinguishing what color is present) cannot be found in prior art and moreover, one of ordinary skill in the art would not have been motivated to come to the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Ackley et al (6,375,075), Ohkubo (2002/0163659), Kinoshita et al (5,426,289), Takahashi et al (5,992,748), Braginsky (5,869,828), Fitzpatrick et al (5,406,640), Chew et al (5,576,528), Holm et al (4,044,227), Bockhold et al (4,488,679), Price et al (4,939,674), and Shamir (5,369,261).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.trail@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35

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U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Allyson N. Trail
Patent Examiner
Art Unit 2876
August 31, 2004



**THIEN M. LE
PRIMARY EXAMINER**